

## **FREDERICK COUNTY BOARD OF APPEALS MEETING MINUTES FOR THURSDAY, AUGUST 23, 2007**

Billy Shreve, Chairman, called to order a meeting of the Frederick County Board of Appeals ("Board") for Thursday, August 26, 2007, at 7:00 p.m. Present were Bernard Bordenick Vice Chairman, Robert Lawrence, Lara Roholt Westdorp, Ron Peppe Sr., and John Clapp. Also present were Michael Chomel, Senior Assistant County Attorney, and Planning Division staff Larry Smith, Zoning Administrator, Rick Brace, Principal Planner II, and Erica Cooke, Recording Secretary.

*Official minutes of the Board of Appeals' meetings are kept on file in the Planning Division.*

Mr. Shreve stated the rules and procedures for the evening.

### **Approval of Minutes**

Ms. Westdorp moved to approve the Thursday, July 26, 2007 minutes. Mr. Bordenick seconded the motion that passed unanimously.

### **CASES**

#### **B-07-11      Jeanne Yost**

A request was filed to reconsider the Board's July 26, 2007 decision of denial of a 24 foot variance from the 40 foot required front building restriction line, located on the east side of Arlington Mill Road, 350 feet +/- north of Fordham Court (Tax Map 60, Parcel 88, Lot 18), zoned R-1 Residential.

Ms. Westdorp made a motion to deny the reconsideration request, seconded by Mr. Lawrence. (Yeas 3, Nays 2--Peppe and Bordenick)

Mr. Shreve swore in all persons who expected to testify at the meeting.

#### **B-07-03      Leonard C. Martin c/o Rand Weinberg, Esquire**

An application was filed requesting reconsideration of a Claim of Administrative Error in Planning Commission Decision of December 13, 2006 denying a subdivision plat for failing the APFO Schools test, located on the north west side of Mill Bottom Road and accessed off Highboro Court [S-791, Hansen 4400] (Tax Map 90, parcel 166) Zoned R-1.

Ms. Westdorp made a motion that the intent of the Board of Appeals was to uphold its prior decision to hear the reconsideration in case B-07-03 and that the Findings & Decision document dated July 30, 2007 be regarded as a record of action of the Board at the April 26, 2007 hearing, seconded by Mr. Lawrence. It was stated that the motion was to clarify the intent of the Board. (Yeas 4, Nays 1-Bordenick)

Ms. Westdorp made a motion to uphold the December 13, 2006 decision of the Planning Commission on this case, seconded by Mr. Peppe. (Yeas 3, Nays 2- Shreve and Bordenick)

#### **B-07-19      Palmer Professional Properties LLC c/o Scott Miller, Esquire**

An application was filed requesting a special exception to the expand a previously approved veterinary clinic (Case B-01-32), located on the north side of MD Route 40, approx. 800 feet west of Harmony Road (Tax Map 46, Parcel 470, Lot 1) Zoned Agricultural. This case was continued from the July 26, 2007 hearing.

*Mr. Shreve announced a break at 9:03 p.m. The hearing resumed at 9:15 p.m.  
Mr. Chomel returned at 9:16 p.m. Ms. Westdorp returned at 9:18 p.m.*

Mr. Bordenick made a motion to grant the application subject to testimony, exhibits and agency comments, seconded by Mr. Peppe (Yeas 4, Nays 1- Westdorp)

**B-07-20      Libertytown Garage c/o Rick Agoris**

An application was filed requesting a special exception (previously approved B-04-40) for a proposed expansion of an auto repair and service shop and a 13 foot variance from the required 25 foot floodplain soils, located on the north side of Liberty Road, approximately 1,000 feet west of MD Route 75 (Tax Map 51, Parcel 98) Zoned Village Commercial.

The Board clarified with Staff that the geotechnical study that was submitted and accepted by the Board eliminated the need for a variance from the applicant's request. No floodplain soils were present of the site. The Board agreed to eliminate that from this request.

Mr. Lawrence made a motion to approve the special exception subject to all exhibits, testimony, staff comments from this hearing and that of the previous special exception hearing of November 8, 2004. Mr. Bordenick seconded the motion that passed unanimously.

Mr. Bordenick left at 9:36 p.m. and was replaced by Mr. Clapp, Alternate Board member for the remainder of the meeting.

**B-07-21      Lauren Nogrady c/o Gregory Wigle, Catoctin Const. Management**

An application was filed requesting a 17 foot variance from the 25 foot required buffer zone and a 15.5 foot variance from the 30 foot required rear yard setback to erect an addition and deck, located on the north side of Deer Spring Road approximately 1,300 feet west of Deer Spring Lane (Tax Map 65, Parcel 43, Lot 1), zoned R-1 Residential.

Mr. Clapp made a motion to deny the variance request. Ms. Westdorp seconded the motion that passed unanimously.

**B-07-22      S. Ronald Furman c/o Rand Weinberg, Esq.**

The request for a special exception to establish a country inn, located on the north side of MD Route 80, approximately 800 foot east of Prices Distillery Road, (Tax Map 97, Parcel 181 aka Seth's Folly), zoned Agricultural.

**Public Comment**

Lynn Schmidt, previous property owner of Seth's Folly and current resident of Georgetown, Delaware.

*Mr. Chomel left at 10:11 p.m.*

Mr. Lawrence made a motion to find the proposed use meets all the criteria of section 1-19-47(B) and 1-19-393 and to approve the country inn including to provide additional space for parties, corporate gatherings, church functions, entertainment, artistic displays, club meetings, and other occasional and intermittent accessory functions similar to those described, and that they be subject to all testimony, exhibits, and agency comments, seconded by Mr. Clapp.

Mr. Peppe requested to amend the motion to include the statement "and those uses typical of a country inn" as well as those aforementioned.

Mr. Lawrence agreed to amend the motion, seconded by Mr. Peppe.

The motion passed unanimously.

**B-07-23 Susan Trost**

An application was filed requesting a special exception to establish an accessory apartment, located on the south side of Broad Run Road (MD Route 383) at its intersection with Corun Road (Tax Map 84, Parcel 84), zoned Agricultural.

*Mr. Chomel returned at 10:30 p.m.*

Mr. Lawrence made a motion to approve the application subject to all testimony, exhibits and agency comments. Mr. Peppe seconded the motion that passed unanimously.

**Discussion - Clarification of B-07-19 Motion**

Ms. Westdorp asked for clarification of the motion made in Case B-07-09, specifically whether the Board addressed the applicant's request for removal of the limitation in number of employees of the operation.

Mr. Peppe stated his recommendation was to eliminate the restriction on the numbers of employees.

Mr. Chomel deemed power to be on the part of the applicant rather than the Board and stated the applicant could come back before the Board to ask for modification if needed.

**ADJOURN**

Being no further business, the meeting was adjourned at 10:50 p.m.

Respectfully submitted,

Erica Cooke  
Recording Secretary

By Bernard A. Borders  
Acting Chairman  
~~Bill Shreve, Chairman~~